

ATTACHMENT D

STATE OF MARYLAND DEPARTMENT OF BUDGET AND MANAGEMENT MINORITY BUSINESS ENTERPRISE PARTICIPATION INSTRUCTIONS AND FORMS

PURPOSE

The Contractor shall structure its procedures for the performance of the work required in the Master Contract to attempt to achieve a twenty-five (25) percent minority business enterprise (MBE) subcontracting goal as stated in the Request for Proposals. MBE performance must be in accordance with this Attachment, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. The Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Attachment.

DEFINITIONS

As used in this Attachment, the following words have the meanings indicated.

Certification means a determination made by the Department of Transportation that a legal entity is a minority business enterprise.

MBE Liaison is the employee designated to administer the Department's MBE program.

Minority Business Enterprise or MBE means a legal entity organized to engage in commercial transactions, that is at least 51-percent owned and controlled by one or more minority persons. MBE also includes a nonprofit entity engaged in promoting the interests of persons with physical or mental disabilities. An MBE must be certified in order to participate in the Department's MBE program.

CONTRACTOR RESPONSIBILITIES

A certified MBE subcontract goal of a minimum of twenty-five (25) percent of the dollar value of all payments made by the State to the Contractor has been established for this procurement. The Contractor agrees that at least this amount of the contract will be performed by certified MBEs.

The overall 25% subcontracting goal shall be achieved by subcontracting the MBE subcontracting percentage of the dollar value of all payments made by the State to the Contractor specified in each respective TO Bid Request. This TO Bid Request specified MBE subcontracting percentage will typically, but not necessarily always, be at least 25% of the dollar value of all payments made by the State to the Contractor under the Task Order.

If awarded a Master Contract:

A certified MBE prime Contractor shall accomplish an amount of work not less than the MBE subcontract goal with its own workforce, certified MBE subcontractors, or both.

A non-MBE prime Contractor shall accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors.

A prime Contractor comprising joint ventures shall accomplish the MBE subcontract goal with the workforce of any certified MBE joint venturer, certified MBE subcontractors, or both.

REQUIREMENTS

An offeror must submit with its response to this solicitation a completed MBE Utilization and Fair Solicitation Affidavit (Attachment D-1) whereby the offeror acknowledges the certified MBE participation goal, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the Solicitation process.

Within 10 working days from notification that it is the apparent awardee or within 10 working days following the award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer. If the apparent awardee fails to return each completed document, the Department may declare the potential award void.

However, because of the competitive task order nature of this project, and the unknown amounts of potential total payments for certain types of Audit Task Orders, it is understood that the apparent awardee can not commit at the time of Master Contract award to specific project value guarantees and project commencement and completion dates. Hence, the obligated dollar amounts, percentage of contract value, and project commencement and completion dates requested on Attachments D-3 may be omitted when these forms are submitted.

- (1) Outreach Efforts Compliance (Attachment D-2)
- (2) MBE Participation Schedule (Attachment D-3)

- (3) Subcontractor Project Participation Statement (Attachment D-4)
- (3) Any other documentation required by the Department's MBE Liaison to ascertain offeror responsibility in connection with the certified MBE participation goal.

With a Contractor's TO Bid Request Response, it must again provide completed Attachments D-3 and D-4. If a TO is to be performed for a Fixed Price (FP), Attachment(s) D-3 and D-4 shall contain the specific obligated dollar amounts that total to 25% of the TO price.

However, if a TO will be awarded on a Time and Materials basis, Attachments D-3 may still have the obligated dollar amount and percentage of contract value omitted. In this instance, it should be stated that the Contractor is obligating itself to the 25% value of the actual payments made to it by the State.

RECORDS AND REPORTS

While performing any TO the Contractor shall:

1. Submit monthly to the Department a reporting listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made. (Attachment D-5).
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices. (Attachment D-6).
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for Department inspection for a period of three years after final completion of the contract.

ATTACHMENTS

- D-1 Certified MBE Utilization and Fair Solicitation Affidavit (must be submitted with proposal.)
- D-2 Outreach Efforts Compliance (must be submitted by contract awardee within 10 working days of notification of apparent award.)
- D-3 MBE Participation Schedule (must be submitted by contractor with Task Order proposal response.)
- D-4 Subcontractor Project Participation Statement (must be submitted by contractor with Task Order proposal response.)
- D-5 Prime Contractor Unpaid MBE Invoice Report (submitted monthly after contract commences.)
- D-6 Subcontractor Payment Report (submitted monthly after contract commences.)